

ESTTA Tracking number: **ESTTA736782**

Filing date: **03/30/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91226635
Party	Defendant Times Publishing Limited
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Date	03/30/2016
Attachments	Opposition Answer.pdf(63477 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of:

Application Serial No.: 86/323983
Mark: MATH IN FOCUS DIGI+
Filing Date: June 30, 2014
Publication Date: November 3, 2015

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INFORMATION BUILDERS, INC.,)	
)	
Opposer,)	Opposition No.: 91/226635
)	
v.)	
)	
TIMES PUBLISHING LIMITED)	
)	
Applicant.)	
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APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES

Applicant Times Publishing Limited hereby answers the Opposition filed on March 1, 2016, in accordance with the numbered paragraphs as follows:

The Opposition contains an unnumbered paragraph which is introductory in nature. To the extent the introductory paragraph is construed as containing allegations requiring a response regarding alleged damage accruing to Opposer Information Builders, Inc., Applicant denies such allegations.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 1 and therefore denies same.
2. Applicant admits that records of the United States Trademark Office indicate that Opposer is the owner of record for U.S. Trademark Registration Nos. 1652265 and 2821942.

Applicant otherwise is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of paragraph 2 and therefore denies same.

3. Applicant admits that records of the United States Trademark Office indicate that Opposer is the owner of record for U.S. Trademark Registration Nos. 2223450, 2223457, 2248562, 2685249, 3755093 and 3831741. Applicant otherwise is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of paragraph 3 and therefore denies same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 4 and therefore denies same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 5 and therefore denies same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 6 and therefore denies same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 7 and therefore denies same.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 8 and therefore denies same.

9. Admitted.

10. Denied.

11. Denied.

FIRST AFFIRMATIVE DEFENSE

Opposer cannot demonstrate that it will be damaged as a result of the registration of Applicant's MATH IN FOCUS DIGI+ trademark.

SECOND AFFIRMATIVE DEFENSE

There is no likelihood of confusion, mistake, or deception because *inter alia* Applicant's mark and Opposer's pled marks are not confusingly similar.

THIRD AFFIRMATIVE DEFENSE

Applicant owns Reg. No. 3800218 for the mark MATH IN FOCUS, which is essentially the same mark as the subject mark MATH IN FOCUS DIGI+, which registration covers, *inter alia*, "Compact discs, digital video discs (DVDs), compact disc read-only memory (CD-ROM) featuring mathematics; electronic publications, namely, books in computer readable form featuring mathematics the same services that are the subject of the involved registration" in Class 9, goods that are essentially the same as the goods that are featured in the subject application. A true and correct copy of the record for Reg. No. 3800218 downloaded from the USPTO's Trademark Applications and Registrations Retrieval (TARR) system is attached hereto as **Exhibit A**. In light of Applicant's prior registration, Opposer will not suffer damage by the registration of essentially the same mark in relation to essentially the same services. *See Morehouse Mfg. Corp. v. J. Strickland Co.*, 160 USPQ 715, 717 (CCPA 1969).

FOURTH AFFIRMATIVE DEFENSE


By failing to object to Applicant's Reg. No. 3800218 for MATH IN FOCUS when the application that resulted in that registration was published for opposition on July 7, 2009, Opposer has unreasonably delayed in asserting its rights against Applicant. Opposer's delay in asserting its rights against Applicant has materially prejudiced Applicant, and Opposer's opposition and the relief sought therein accordingly is barred by Opposer's acquiescence.

FIFTH AFFIRMATIVE DEFENSE

By failing to object to Applicant's Reg. No. 3800218 for MATH IN FOCUS at least as early as July 7, 2009, Opposer has misled Applicant by its silence and inaction, leading Applicant to reasonably infer that no third party has rights to assert, if any, against Applicant. Applicant reasonably relied to its detriment upon Petitioner's silence and inaction. Opposer's delay in asserting its rights against Applicant is unreasonable and has materially prejudiced Applicant. Accordingly, Opposer's cancellation claim is barred by the doctrine of equitable estoppel.

TIMES PUBLISHING LIMITED

By its attorneys,



Date: March 30, 2016

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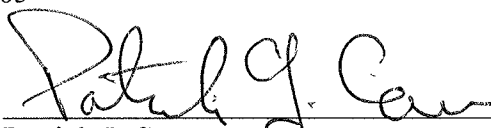
Opposition No.: 91/226635
Opposer: INFORMATION BUILDERS, INC.
Attorney Docket No. 116447-18

Trademark Serial No.: 86/323983
Applicant: Times Publishing Limited
Mark: MATH IN FOCUS DIGI+

CERTIFICATE OF SERVICE

I, Patrick J. Concannon, certify that on March 30, 2016 I served a copy of the foregoing document by electronic mail and mailed a hard copy via overnight courier to counsel for Opposer INFORMATION BUILDERS, INC. using the following contact information:

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